

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JAMES H. FISCHER, :
Plaintiff, : 14 Civ. 1304 (PAE) (HBP)

-against- :
SANDRA E. FORREST, et al., :
Defendants. :
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JAMES H. FISCHER, :
Plaintiff, : 14 Civ. 1307 (PAE) (HBP)

-against- :
STEPHEN T. FORREST, JR., et al., : ORDER
Defendants. :
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PITMAN, United States Magistrate Judge:

Plaintiff's "Motion to Join Defendants and Amend the Complaints Accordingly," is denied without prejudice to renewal.

One basis on which the Court can deny permission to amend a complaint is the futility of the proposed amended complaint; if the proposed amended pleading is futile or does not state a claim, permission to amend will be denied. See Williams v. Citigroup Inc., 659 F.3d 208, 213-14 (2d Cir. 2011); Ruotolo v. City of N.Y., 514 F.3d 184, 191 (2d Cir. 2008); Laydon v.

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Mizuho Bank, Ltd., 12 Civ. 3419 (GBD), 2015 WL 1515487 at *2 (S.D.N.Y. Mar. 31, 2015) (Daniels, D.J.). Neither the defendants nor the Court can assess whether a proposed amended pleading is futile unless the proposed amended pleading itself is included with the motion to amend. For that reason (and others), most judges in this District require that a motion to amend be accompanied by a copy of the proposed amended pleading. Huelbig v. Aurora Loan Servs., LLC, 10 Civ. 6215 (RJH) (THK), 2011 WL 4348281 at *3 (S.D.N.Y. May 18, 2011) (Katz, M.J.) (collecting cases), adopted at, 2011 WL 4348275 (S.D.N.Y. Sept. 16, 2011) (Holwell, D.J.); In re Crude Oil Commodity Litiq., 06 Civ. 6677 (NRB), 2007 WL 2589482 at *4 (S.D.N.Y. Sept. 7, 2007) (Buchwald, D.J.); 1 Michael Silberberg, Edward M. Spiro, Judith L. Mogul, Civil Practice in the Southern District of New York § 6:27 at 268 (2014-2015 ed.)

Accordingly, plaintiff's motion to amend (Docket Item 73 in 14 Civ. 1304, Docket Item 93 in 14 Civ. 1307) is denied

without prejudice to renewal. Any renewed motion to amend must be accompanied with a copy of the proposed amended complaint.

Dated: New York, New York
May 19, 2015

SO ORDERED


HENRY PITMAN
United States Magistrate Judge

Copies transmitted to:

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